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**OFFICE OF PETITIONS
A/C PATENTS**

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

In re Application of
Castiel, et al.
Application No. 09/658,215
Filed: September 8, 2000
Attorney Docket No. 10636/005001
For: FIXED SATELLITE CONSTELLATION
SYSTEM EMPLOYING NON-GEOSTATIONARY
SATELLITES IN SUB-GEOSYNCHRONOUS
ELLIPTICAL ORBITS WITH COMMON
GROUND TRACKS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed March 6, 2001
(Certificate of Mailing date of February 27, 2001), under 37 CFR
1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given ONE MONTH from the mailing date of
this decision to reply, correcting the below-noted deficiencies.
Any reply should be entitled "Request for Reconsideration of
Petition Under 37 CFR 1.47(a)," and should only address the
deficiencies noted below, except that the reply may include an
oath or declaration executed by the non-signing inventor. Failure
to respond will result in abandonment of the application. Any
extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed September 8, 2000
without an executed oath or declaration and named David Castiel,
Jack Anderson, and John E. Draim as joint inventors.

Accordingly, on October 27, 2000, a "Notice to File Missing Parts
of Application" was mailed, requiring an executed oath or
declaration, and a surcharge for its late filing, along with the
required filing fees due in connection with the application.

In response, on March 6, 2001, a petition under 37 CFR 1.47(a)
was filed.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof
that the non-signing inventor cannot be reached or refuses to
sign the oath or declaration after having been presented with the
application papers (specification, claims and drawings); (2) an
acceptable oath or declaration in compliance with 35 USC 115 and
116; (3) the petition fee; and (4) a statement of the last known
address of the non-signing inventor.

The instant petition lacks items (1) and (4) above.

As to item (1), the petition lacks any supporting evidence that

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the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Petitioner should include copies of dated cover letters and/or mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers or having been presented with the application papers, refused to sign the oath or declaration. If oral refusals were made by the non-signing inventor, that fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusals were made. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

As to item (4), the petition fails to state the last known address of the non-signing inventor.

Deposit account 06-1050 has been charged the required petition fee of \$130.00 as per the authorization contained in the instant petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
 2201 S. Clark Place
 Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Patricia Fuson-Ball
for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy